

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

CORNELL E. DAVIS,

Plaintiff,

v.

RODRIGUEZ, *et al.*,

Defendants.

Case No. 1:25-cv-00368-JLT-BAM (PC)

ORDER VACATING FINDINGS AND
RECOMMENDATIONS
(ECF No. 7)

ORDER DENYING MOTION FOR
EXTENSION OF TIME AS UNNECESSARY
(ECF No. 9)

ORDER GRANTING MOTION TO
PROCEED *IN FORMA PAUPERIS*
(ECF No. 8)

Plaintiff Cornell E. Davis ("Plaintiff") is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983.

On March 31, 2025, the Court issued an order directing Plaintiff to submit a completed application to proceed *in forma pauperis* or pay the \$405.00 filing fee to proceed with this action. (ECF No. 5.) On May 12, 2025, following Plaintiff's failure to respond to the Court's order or otherwise communicate with the Court regarding his application or payment of the filing fee, the Court issued findings and recommendations to dismiss this action, without prejudice, for failure to obey a Court order and for Plaintiff's failure to prosecute this action. (ECF No. 7.)

On May 21, 2025, Plaintiff filed a motion to proceed *in forma pauperis* and a motion for extension of time. (ECF Nos. 8, 9.) Plaintiff states that he sent his documents to the trust office,

1 but he is seeking an extension of 30 days because he is in ASU and being denied access to his
2 property, writing materials, and law library access. (ECF No. 9.) Plaintiff alleges that he has sent
3 all documents in, and the prison is intentionally harassing him and singling him out to try to get
4 his case dismissed. Plaintiff also would like to object to the findings and recommendations to
5 dismiss this action due to the prison denying him access to the law library and failure to comply
6 with his demands to file all attached documents. (*Id.*)

7 In light of Plaintiff's allegations that he was delayed in responding to the Court's order to
8 the actions of prison staff and his housing placement, the Court finds it appropriate to vacate the
9 pending findings and recommendations. The Court further finds that an extension of time is
10 unnecessary, as the Court has now received Plaintiff's completed application to proceed *in forma*
11 *pauperis* and Plaintiff's trust account statement.

12 Upon review of Plaintiff's application, Plaintiff has made the showing required by
13 § 1915(a) and accordingly, the request to proceed *in forma pauperis* will be granted. Plaintiff is
14 obligated to pay the statutory filing fee of \$350.00 for this action. 28 U.S.C. § 1915(b)(1).
15 Plaintiff is obligated to make monthly payments in the amount of twenty percent (20%) of the
16 preceding month's income credited to Plaintiff's trust account. The California Department of
17 Corrections is required to send to the Clerk of the Court payments from Plaintiff's trust account
18 each time the amount in the account exceeds \$10.00, until the statutory filing fee is paid in full.
19 28 U.S.C. § 1915(b)(2).

20 Accordingly, IT IS HEREBY ORDERED that:

- 21 1. The findings and recommendations issued on May 12, 2025, (ECF No. 7), are
22 VACATED;
- 23 2. Plaintiff's motion for extension of time, (ECF No. 9), is DENIED as unnecessary;
- 24 3. Plaintiff's motion to proceed *in forma pauperis*, (ECF No. 8), is GRANTED;
- 25 4. **The Director of the California Department of Corrections or his/her designee shall**
26 **collect payments from Plaintiff's prison trust account in an amount equal to twenty**
27 **per cent (20%) of the preceding month's income credited to the prisoner's trust**
28 **account and shall forward those payments to the Clerk of the Court each time the**

amount in the account exceeds \$10.00, in accordance with 28 U.S.C. § 1915(b)(2), until a total of \$350.00 has been collected and forwarded to the Clerk of the Court. The payments shall be clearly identified by the name and number assigned to this action;

5. The Clerk of the Court is directed to serve a copy of this order and a copy of Plaintiff's *in forma pauperis* application on the Director of the California Department of Corrections, via the court's electronic case filing system (CM/ECF); and

6. The Clerk of the Court is directed to serve a copy of this order on the Financial Department, U.S. District Court, Eastern District of California.

IT IS SO ORDERED.

Dated: May 27, 2025

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE